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OFFICE OF PETITIONS

In re Application of :
Terry Lee Goode :
Application No. 09/841974 :
Filing or 371(c) Date: 04/24/2001 : **ON PETITION**
Attorney Docket Number: :
003921.00011 :

This is a decision on the "Combined Petition to Expunge and for Expedited Consideration of Petition", filed August 3, 2007. The petition to expunge is properly treated under 37 C.F.R. § 1.59, and the petition for expedited consideration of the petition to expunge is properly treated under 37 C.F.R. § 1.182. The Decision on the petition under 37 CFR 1.182 is being mailed under separate cover.

This Petition under 37 C.F.R. § 1.59 is hereby **granted**.

Petitioner files the present petition to expunge inadvertently submitted information and in support of the petition states that 1) the information is confidential and privileged communication; 2) that except for the inadvertently submitted material, the communication has been maintained in confidence; 3) removal of the information is necessary to avoid irreparable harm caused by public disclosure of the confidential and privileged information; 4) the privileged communication does not constitute material information under 37 CFR 1.56, and 5) Petitioner will retain the communication for the period of any patent to issue on the present application.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue¹;

¹ The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. The image of the recorded document will be "closed" from view, but will remain in the records of the Office.

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;


(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(*>g<) is included.

A request to expunge information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be treated on a case-by-case basis. Applicants should note that unidentified information that is a trade secret, proprietary, or subject to a protective order that is submitted in an Information Disclosure Statement may inadvertently be placed in an Office prior art search file by the examiner due to the lack of such identification and may not be retrievable.

The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. Even if a petition to "expunge" a document is granted with respect to a particular application or patent, the image of the recorded document will remain in the records of the Office. The Office will, however, "close" the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions